

The workshop meeting of the Borough Council of the Borough of Sinking Spring was called to order on Wednesday, August 27, 2008 at 7:00 p.m., at the Sinking Spring Borough Hall by President Stewart Wenrich. After the Pledge to the Flag, Regina Shade called the roll reflecting the following Council Members present:

Stewart Wenrich
Bruce Light (absent)
Barbara Kutz
Lawrence Schmidt
George Butkus
James Zerr
Elizabeth Sloan (absent)

Other officials present were: Mayor Clarence Noecker; Charles Fitzpatrick, Borough Solicitor, Michael Hart, Public Works Director, Peter Eisenbrown, Ludgate Engineering, and Regina Shade, Secretary/Treasurer, who recorded the minutes of the proceeding.

A moment of silence was held for our service people along with Mr. Light who was in the hospital.

VISITORS:

We deferred the visitors until Mr. Fitzpatrick arrives.

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Mr. James Yarger spoke about the Revitalization Project. Mrs. Shade passed out the book he and his wife had completed. It contained photos, the architectural styles, dimensions, etc. Mrs. Shade showed the book he had put together. It has over 300 houses. This will help in obtaining grant money. It is also on five (5) CD's. He passed around his scrapbook. He explained everything he had been doing in regards to this project. Mrs. Shade explained what was going to be happening on Revitalization Day. It is 11:00 a.m. till 7:00 p.m. Mrs. Shade requested volunteers from Council, etc. for some of the events that will be taking place that day. She explained that over time they are hoping this event will take off and become a community event like "Community Days" in the Governor Mifflin School District. Mrs. Sandy Graffius requested the opening of a checking account for the Revitalization Committee. Mrs. Graffius explained when the County prepares their financial statements for the year they have "component units." They are underlying pieces of the County that do not go directly to the County. She gave a few examples. She asked that the Revitalization Committee become a component unit of the Borough. Mrs. Graffius stated that we will soon begin raising some funds and she would like to see a checking account open. Mr. Fitzpatrick said that the Borough can only spend money through its treasurer. Mr. Fitzpatrick went on to say the question that was posed to him was good Mrs. Graffius serve as treasurer of the organization. Mr. Fitzpatrick stated it would only be a figure head position because all checks must be written by the treasurer of the Borough. Mrs. Graffius stated that would be fine. They would like to have either a designated fund in the books in the General Fund or a fund of their own. She stated it would be our choice. Mr. Fitzpatrick stated if you are a component unit it would have to be

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the Borough setting up the fund in its own books. It will be a separate fund. Mrs. Shade explained how this would work with the fund. Mr. Zerr made the motion to set up a separate fund and have Mrs. Shade, Mr. Zerr and Mrs. Graffius get together to work out the details; seconded by Mrs. Kutz. AYES – 5, NAYS – 0, ABSENT – 2 (Mr. Light and Ms. Sloan); motion carried.

The flu clinic will be October 15th from 11 a.m. to 3 p.m. here at the Borough Hall.

Bulk Trash is on the same day as well.

Mrs. Shade stated in conjunction with the Reverse 911 System that is being installed by the Westside Emergency Management Agency, we are sending out census forms to each household. It is extremely important to fill out the papers and return to the Borough at your earliest convenience. The landlords must fill in and keep the Borough advised of any changes in tenants. We need the tenant's phone numbers so that if we need to get hold of them we can.

The next item was the disbanding of the Authority. Mr. Fitzpatrick stated that he, Mike Setley, Alex Morrison, and Dave Schlott had a conference call in which a few items were discussed. One (1) was the Authority cannot be dissolved until the debt is paid. Debt includes not only outstanding bank debt but obligations which the Authority has incurred. He does not have a list of them at the moment but they included debt that the Authority incurred in the running of its business. We also do have to pay off the debt and in conjunction with that we will either have to borrow money and pay off the debt or assume the debt they currently have. They discussed the timing issue on the improvements of the sewer system (plant). The reason they did that was the Borough will need to get DCED approval for the Borough to borrow money to pay off the indebtedness of the Authority but if we need to get money for the upgrades we can do this at the same time and it would save a considerable amount of money. In the process of talking about this another issue was raised. There is H2O money. The program was passed recently by the PA Legislature and provides grants for water/sewer projects, flood control, storm water projects, and hazardous dam repair. The water/sewer projects are to have priority based upon regionalization projects. We obviously supply sewage services for other municipalities. The thought was that since we do supply the service maybe we would be entitled to a grant. This would reduce any financial obligations the Borough would have with respect to the upgrade of the plant. Mr. Setley was meeting on behalf of the City of Reading with the Commonwealth Financing Authority. This agency administered the grant money. He was attempting to find out information for the City and he will be incorporating some of the questions Mr. Fitzpatrick had regarding the grant money for the Borough. One (1) of the questions is could we go out and borrow money in the form of debt now even though our project might not need funding for another year but we borrow enough to pay off the current Authority loan and still have a "line of credit" so that when we need it for the project we will have it in place. That perhaps could disqualify us from a grant and that is what he is trying to determine right now. Currently, we are focused on the financing, the paying of the obligations of the Authority, and once we get that in line, the rest should fall in place. Mr. Fitzpatrick requested Mr. Morrison to give a brief report on what the Authority still owes (this does not include the loan). Mr. Morrison had a revised list for the Authority. It is in an effort to help make a smooth transition. They were not expecting answers on all of this tonight however there are two (2) issues they would hope we could

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resolve that evening if possible. Some of the items are that the permits need to be placed in the Borough's name. Presently the Authority owns the plant so perhaps the insurance will need to go into the Borough's name. He listed the projects that are still going on and how much the Authority still owes on these projects. One of the items that they would like guidance on that evening is in regards to permits. To move ahead with the upgrade permits must be applied for. It is a permit application to the DRBC and an application fee in the amount of \$7,415.00. The Authority took action the evening before to authorize that form be executed along with the check. However with the Ordinance that was signed they felt they needed to come back to Council to ask for their input. They did make the motion to authorize the check however they were looking for Council's approval. Mr. Fitzpatrick stated that perhaps Mr. Morrison should explain what this actually is. If we move ahead now we might make the December docket. If we wait too long we are into May. This does not authorize the project to be bid; it will just keep this moving ahead if need be. This is regarding the upgrade and it is not the NPDES permit. This just needs to be done if you are doing a significant upgrade. A brief discussion ensued. Mr. Butkus made the motion to allow the Authority to pay the \$7,415.00 for the DRBC permit; seconded by Mrs. Kutz. AYES – 5, NAYS – 0, ABSENT – 2; motion carried. Another item is the phosphorous. They presented the two (2) alternatives to the Authority. One (1) included the modification of the existing facilities which are presently now being used to their full extent. This is the alternative the Authority endorsed and is recommending. At some time before they proceed there will be a need for design and construction efforts and again that would lead to more indebtedness. They don't need an answer tonight but this must definitely be thought about. Another item is the day to day work (secretary/treasurer, solicitor, engineers, etc) that will need to be paid for. They still owe their auditor some money. There was a value there for an NPDES renewal where the Authority agreed to pay Miller for some testing that needed to be done. That was \$2,800.00 however this had been paid the evening before. In regards to our Ordinance #561 it states to continue your business without incurring additional debt. The Authority is following a strict interpretation of this and that is why they are coming back to Council for Council's approval. Mr. Morrison feels they are looking for how they should proceed to make sure they are going down the path that Council wants them to take. Mr. Fitzpatrick said there was a statement on the list that questioned if the Authority should obtain funding if needed to pay debt. He stated the only way the Authority can obtain funding is by borrowing money and it is clear that the Borough by its Ordinance stated that the Authority should not be incurring any more debt. The Authority should not be borrowing any more money. Funding for normal operating expenses of the Authority has to be provided by the Borough. There are no other sources of funds for the Authority. Mr. Fitzpatrick respects the Authority for doing this, approaching Council with all major expenses for approval however the Authority is still in existence and is still operating and still authorized to proceed with projects they have in existence till they are officially dissolved. The Borough will need to provide the funding; the Borough should be approached and told what that amount is. Mr. Morrison stated the Authority most likely will run out of money in a month or two anyway. At that time do the invoices go to the Borough or does the Authority approve them and the Borough look at them and then authorize the transfer of money? These are some of the housekeeping items that will need to be looked at. Mr. Fitzpatrick stated what if the Authority has reviewed the expenses they should come before Council and make the recommendation that the bill be paid. The Borough should review it and then pay the bill. Mr. Fitzpatrick went on to say that once a month at the Borough Council meeting, the Council should approve the expenditures. They concur with that. Mr. Francis Butkus asked Mr. Fitzpatrick with the money they still have, does Council want to

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approve the bills before they pay their bills. Mr. Fitzpatrick stated they still are in existence, and as long as they have the money to operate, he feels the Borough does not need to approve those bills. They can just go ahead and pay them. A brief discussion ensued as to exactly what bills they could or couldn't pay. The one (1) bill for ADS is over \$83,000.00 and that bill will need to be an exception Mr. Morrison said. Mr. Fitzpatrick stated this would have occurred even if there was no dissolution Ordinance passed as the Authority was running out of money. Mr. Morrison stated Mr. Setley said that some of this financing could have been wrapped around the funding for the expansion. Mr. Morrison questioned if there were any committees or individuals the Borough would like to appoint to work with the Authority. Mr. Wenrich thought it should be the Sewer Committee. The Intermunicipal Agreement needs to keep moving forward. Another item they were hoping they could get some action on that evening was the CAP plan in regards to the DEP. They were questioning if they needed to attend the meeting with the parties and the PA DEP. The meeting is September 4th. This could incur some cost. Mr. Fitzpatrick stated the Authority absolutely needs to be at that meeting. As far as the engineering and legal fees you shall bill the Authority. The Authority in turn will submit that bill to the Borough if they don't have sufficient funds to pay it. Mr. Fitzpatrick questioned where the meeting is to be held. Mr. Morrison stated they only know the date, no time or place was established as the DEP was in contact with Lower Heidelberg to get their availability. A discussion ensued as to where the meeting should be held. He thanked Council for taking the time to review these items with them. Mr. Zerr had a question regarding the over \$83,000.00 ADS bill. This company was originally Severn Trent. The bill also took into consideration some corrections that needed to be made. Mr. Morrison explained how this bill was incurred. Mr. Butkus will be attending the meeting with the DEP. Mr. Schmidt questioned if we should authorize our Solicitor to attend. Mr. Fitzpatrick stated depending on the long range implications it might not be a bad idea. Mr. Morrison stated the Authority Solicitor is unavailable so he will be sending a substitute. Both Mr. Schmidt and Mr. Fitzpatrick feel that Mr. Fitzpatrick should attend. Mr. Zerr made the recommendation that Mr. Fitzpatrick attend that meeting wherever it is. Mr. Fitzpatrick thanked Mr. Morrison for the outline. Mr. Francis Butkus has an issue with their auditors. The audit should have been in Harrisburg the first of June, and here it is almost September and they don't have it. We don't have the final audit as of yet. They don't want to make a payment without the report being completed. In addition, they know the State laws and they don't want to make a payment without having the completed document. He feels there should be a lowering of the bill. Mr. Schmidt questioned if there will be a fine for not having that document into the State. Mr. Francis Butkus did not know. Mr. Zerr feels that their (the Authority) Solicitor should look into this for them. There is a joint response on the South Heidelberg Agreement. There were three (3) no's from the Authority. The reason was they had no chance to look over it and discuss it. Mr. Fitzpatrick stated he had not received it as of yet. Mr. Morrison thinks Mr. Hoffert had an old version of an agreement. The Authority did not want Council to feel they are holding up the process. Mr. Fitzpatrick feels they are close to a draft however he has not received a copy back as of yet. We should have it any day now. Mr. Zerr stated that all of Council has received a copy of the RFP that we would like to run in the newspaper. Mr. Zerr made a motion to run the RFP and ask for an October 1st due date to have the proposals returned; seconded by Mr. Schmidt. Mr. George Butkus questioned if they will need to audit the Sewer Revenue books as well since they were collecting the sewer tapping fees. Mr. Fitzpatrick stated the bulk of the tapping fees prior to 2003 were collected and deposited into the Sewer Fund. AYES – 5, NAYS – 0, ABSENT – 2; motion carried.

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The next issue was the fire task force. Mr. Fitzpatrick stated he attended a meeting that day along with other Solicitors from Wernersville, Lower, and South Heidelberg Townships. Mr. Mike Mixell was in attendance. He represented the Sinking Spring Fire Company as well as the Fritztown Fire Company. Brian Clemens was there along with Jason Hopp, who is the legal counsel for Redners. He has done a lot of work in the creation of this task force. Redner's has made Mr. Hopp available for this issue. Redners is paying his salary. They have developed an outline of the Articles of Incorporation and Bylaws. Generally speaking what they are proposing to do is to present this at a meeting on October 21st. It will be at 7:00 p.m. at one (1) of the Wilson Schools. At that time they want to present it to all the municipalities the general funding plan for the creation and the operation of a combined volunteer fire company. They propose there is a fire commissioner, who oversees the operations. It will be non profit. There will be a Relief Association for that fire department. He would be paid. He would be a professional who would be obtaining grants, overseeing the operations, equipment purchasing sort of a General Operation Manager. The fire company itself will have structure. They shall have a fire chief. There would be a fire marshal, a chief engineer, various deputies, etc. They have developed a structure among themselves. They have chosen a chief if this entity is created. They are all getting along very well. Now, they need money from each municipality. The Borough of Sinking Spring will probably be the less impacted municipality of them all. We are currently providing about \$130,000.00. They feel Sinking Spring will need to contribute about 20% of the operating costs. Wernersville will be about 11%, Lower and South are like 30.33%. Mr. Zerr thought they were to divvy this up evenly. Mr. Fitzpatrick said no. It is based on the assessed value of the real estate. The theory behind this is that there would be a uniform fire tax millage levied on each municipality. We already have a fire tax. They only one (1) that does not have a fire tax is South Heidelberg. Mr. Fitzpatrick stated they clearly are not pulling their weight. This has been a uniform complaint. By far we are paying more than anyone else. The theory of using the assessed value is that if everyone is paying the same percentage based on their millage it will always be proportionate. This is not equal. Mr. Zerr stated that he heard South was not putting on a fire tax; it would just be a line item in their General Fund budget. Mr. Fitzpatrick did not know that for sure. Mr. Zerr feels if they don't put in a tax then that is not fair and it is null and void. The tax guarantees the money. Their solicitor was in agreement they should institute the tax as well. As a matter of fact she felt we should have an intermunicipal agreement regarding this matter. He again stated nothing is in concrete. Mr. Fitzpatrick stated what would happen if we contributed 20% to the cost however the bulk of the fires occur in another municipality. Is that fair? He thinks perhaps there should be some type of adjustment for activity. Mr. Clemens stated they talked this over with Dean Fernsler, the "guru" of fire departments, and his answer was keeping it simple. They only discussed concepts today. Initially it will be all volunteer however they do for see that at some point we might need to add a paid driver or two (2) because in some areas they are having difficulty in getting drivers. They are suggesting in the beginning it will be run by 13 trustees. Then it would come down to nine trustees after year three (3). Each municipality will appoint two (2) members. One member shall be non-elected. The other member will be a member of Council or the Board of Supervisors. The fire commissioner will be a member of the board. He will answer to the board. A brief discussion ensued. Mr. Zerr questioned Mr. Fitzpatrick if he knew where we were on the separation. Mr. Fitzpatrick did not really know however things were being worked out. A discussion ensued as to the land and who should earn it. They did look into whether the social quarters can keep their liquor license and they are able to. They will need to amend their bylaws to state that if they

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have surplus they will still support the fire department. This will help them keep their nonprofit status. Mr. Schmidt questioned if they are forming their own social/relief quarters. The Mayor questioned what would happen to the money that is currently in the relief association. It will be transferred to the new relief association. Mr. Zerr stated that is what Spring did when they merged their companies. Mr. Zerr wondered if the State will go for this. The State Auditor will need to decide this. Mr. Schmidt questioned when the \$1,500 needs to be paid. They need the funding to develop the bylaws and the articles of incorporation for the 21st meeting. If they don't have that they won't have all the info to present to the municipalities. Mr. Zerr feels that is all well and good however but how can we make a decision on information we don't have. They are asking us to make a decision however what if we don't like the proposal. Mr. Fitzpatrick stated we are out the \$1,500.00. Mr. Schmidt agrees with that but unless we pay the \$1,500.00 we don't really know all the facts. Mr. Zerr stated when this task force was formed was to explore and do a study if this would fly. To this date nobody from that entity has provided any information to us or any other municipality, no recommendations, no nothing. Mr. Zerr stated what if we give them the \$1,500.00 and we don't go along with what they say. Mrs. Shade stated she received a call from Brian Clemens' office and he would like to appear at our October Council meeting. Mr. Fitzpatrick stated if we don't pay the \$1,500.00 that won't stop them from making a presentation. If they are going to develop bylaws, this would make it more formal. A brief discussion ensued. Mr. Butkus questioned if at the meeting on the 21st will they want us to make a decision. Mr. Fitzpatrick stated no it was for information only. Mr. Butkus wanted to table this till the next Council meeting. Mr. Wenrich wanted us to take a vote that evening. Mr. Schmidt made a motion to pay the \$1,500.00 for the bylaws; seconded by Mr. Butkus. AYES – 1 (Mr. Butkus), NAYS – 4, ABSENT – 2; the motion did not pass. Mr. Zerr wanted someone to come and give us the information we asked for. Mr. Wenrich has concerns about giving “away” our equipment to the other municipalities. Mr. Zerr stated we have good leadership as well. The theory is that the Fire Commissioner will have greater accountability perhaps, Mr. Fitzpatrick stated. Mr. Wenrich feels we need more information and he doesn't want us to be backed into a corner. Mr. Fitzpatrick stated the only time we are actually bond to anything is when we sign the agreement stating we are raising the fire tax. We are not committed now or even after the 21st. Mr. Butkus questioned if there is a “bail” out procedure. Mr. Fitzpatrick stated it was discussed. You will be making a commitment for a few years. Another discussion ensued with regards to various questions that need to be answered. This cannot happen until the separation occurs between the fire company and the social quarters here in Sinking Spring.

Mr. Butkus stated we have not heard back from Spring Township as of yet to sit down and discuss the possibilities of a joint plant. Mrs. Shade will send out another e-mail to Mr. Vaughan.

Mr. Eisenbrown had some information regarding Brookfield Manor. Mr. Fitzpatrick stated he had a call into Jim Elliott and he had not returned his call. Mr. Fitzpatrick stated that was not like him and he figured he was on vacation. Mr. Fitzpatrick stated that the final wearing course has not been put down on the roads in Brookfield Manor. They are a few other issues back there as well. We do have money from them (letters of credit). We can draw on the letters of credit if need be. Mr. Eisenbrown's concern is the rising price of oil. Our letter of credit is from a long time ago and the prices have changed quite a bit. We are permitted under the law, if it takes longer than “x” number of years we can go back and re-estimate the expense and then they are required to up their

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letter of credit to meet the new amount. This might be the way we will need to go, Mr. Fitzpatrick said. He will make that suggestion. We will need to request Ludgate to come up with what will be an appropriate letter of credit. We don't want to go out and really do this work. We want the developer to complete it; but if they don't complete it, we want to make sure we have monies available if need be. Mr. Schmidt said if they go bankrupt then we will need to finish the work. Mr. Butkus questioned how much money is in the escrow accounts. Mr. Eisenbrown feels for Phase I and II the escrow is in access of a half a million dollars. There is a separate escrow for repairs to Reedy Road and Cacoosing somewhere in the area of \$275,000.00. If we can seize all three (3) of them we would have around $\frac{3}{4}$ of a million dollars. Mr. Schmidt questioned if that would be enough. Mr. Eisenbrown does not know for sure. Mr. Schmidt asked what the escalation was for the Ashley project. Mr. Hart stated when that project was bid it was \$402 per liquid ton as of 8/14 it went up to \$834 per liquid ton. On Ashley Road there is around a \$20,000.00 addition. There is about 5 times of wearing course in Brookfield Manor then there is on Ashley. Mr. Eisenbrown stated the question is does the Borough want that area paved this year or not. Mr. Zerr questioned where our liability with this is; does that mean we take dedication of that area now or not. Mr. Fitzpatrick stated if the developer or we put it in we would still keep the maintenance agreement for a period but once it is completed we can take it over. A brief discussion ensued. Mr. Wenrich stated he does not feel we can get it done before the fall. Mr. Eisenbrown stated that he and Mr. Hart are trying to work with the developer. Mr. Wenrich questioned if we could give the developer an ultimatum. Mr. Fitzpatrick stated that is basically what the phone call to Mr. Elliott is about. A discussion ensued as to what this might cost us. There are no active sinkholes there now. Mr. Zerr questioned if they can put together some numbers together for them for the next meeting. Mr. Eisenbrown stated that if we wanted to go out to bid and finish this year we need to start putting bid documents together. He is not asking to advertise but just realize time is important. He hopes that some decision could be made at the next Council meeting. Mr. Schmidt stated it is actually two (2) different things. Mr. Fitzpatrick can try moving ahead with Mr. Elliott and Mr. Eisenbrown could put together the information and have it available for us at the next meeting. Mr. Schmidt stated no matter what we must have the paving done. Mr. Eisenbrown stated that is his and Mr. Hart's feeling that at least at Phase I; it should be paved. Mr. Fitzpatrick read that we are able to get up to 110% of what we re-establish the value to be. Mr. Fitzpatrick feels that is what we should authorize Ludgate to do. This is what he is going to tell Mr. Elliott. Mr. Hart stated that he believes storm sewer televising has not been done and only part of sanitary has been completed. Mr. Zerr made a motion to authorize Ludgate to prepare the bid documents, to have all financial items in place, the punch list is already in place so Council can make a sound decision; seconded by Mr. Schmidt. Mr. Eisenbrown stated he will have a problem putting a bid document together however he can have the financial information and what needs to be done available. Mr. Zerr changed the motion to authorize Ludgate to bring as much information to the table for the next Council meeting as they can; seconded by Mr. Schmidt. AYES – 5, NAYS – 0, ABSENT – 2; motion carried. Mr. Butkus questioned if we could charge them for the cost of Ludgate putting this together to which Mr. Fitzpatrick stated we can.

Mr. Zerr stated that PA American Water Company has reviewed their accounts. According to their records we have hydrants that we are not being billed for. We shall see an additional charge for these. We have 78 hydrants according to them. Mrs. Bohn contacted PA American Water and asked for clarification. Our main fire hydrant in front of the fire company is still out of service. It

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has been out since the water main break two (2) weeks prior. They told Mr. Hart they would be there today however they were not there. Mr. Zerr made a motion to authorize our Solicitor to contact PA American long with FEMA, PEMA, PUC, and whoever else stating our dissatisfaction with them as they are leaving our fire hydrants bagged and out of service; this is getting to be ridiculous that we talk about this so frequently and to compare their number of hydrants with Mr. Hart's total along with the location of the hydrants; seconded by Mr. Butkus. Mr. Zerr stated we had already done this. Mrs. Bohn has asked for this info and as of yet we have not received it. A brief discussion ensued. AYES – 5, NAYS – 0, ABSENT – 2; motion carried.

Mayor Noecker stated that Officer Matthew Yatsko has been employed for a year and he passed his probation period so therefore he goes to an Officer 2nd Class. His new rate will be \$22.91 per hour.

Mayor Noecker stated that we were presented a list by the Civil Service Commission. Mr. Travis Fritz was number one (1) on the list and he is ready to be hired. The Mayor made the recommendation to hire him. Mrs. Kutz made the motion to hire Travis Fritz as our new 3rd Class Police Officer pending the testing that still needs to be done which can only be done after they are hired; seconded by Mr. Butkus. A letter must be sent to him from the Borough Secretary. AYES – 5, NAYS – 0; ABSENT – 2; motion carried.

EXECUTIVE SESSION:

An executive session was held at 9:00 p.m. for real estate purposes.

RECONVENE:

Council reconvened at 10:08 p.m. Mr. Butkus made a motion to authorize our Solicitor to draw up the paperwork for public auction for the property discussed abutting Alcon with the appropriate restrictions to its use and in future activity and to also notify Alcon about this; seconded by Mrs. Kutz. AYES – 5, NAYS – 0, ABSENT – 2; motion carried. Mr. Butkus explained what this means.

ADJOURNMENT:

The meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Regina M. Shade, Borough Secretary/Treasurer